

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants : Bruce H. HANSON et al. Group Art Unit: 3651
Appln. No. : 10/715,516 Examiner: Khoi H. TRAN
Filed : November 19, 2003
For : **SYSTEM AND METHOD OF FILLING CONTAINERS**

United States Patent and Trademark Office
Customer Service Window, Mail Stop Appeal Brief - Patents
Randolph Building
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Alexandria, VA 22314

REPLY BRIEF UNDER 37 C.F.R. 41.41(a)(1)

Sir:

This Reply Brief is in response to the Examiner's Answer dated November 29, 2007, the period for reply extending until January 29, 2008. The Examiner maintains the grounds of rejection advanced in the final rejection of claims 6, 13 and 19, and provides arguments in support thereof.

Appellant notes this Reply Brief is being filed under 37 C.F.R. 41.41(a)(1) and is directed to the arguments presented in the Examiner's Answer, and therefore must be entered unless the final rejection is withdrawn in response to the instant Reply Brief. With regard to this Reply Brief, Appellant notes it is addressing points made in the Examiner's Answer and not repeating the arguments set forth in the Appeal Brief.

If for any reason a necessary fee is required for consideration of the instant paper, authorization is hereby given to charge the fee for the Appeal Brief and any necessary extension of time fees to Deposit Account No. 19-0089.

POINTS OF ARGUMENT

First Issue

On page 3 of the Examiner's Answer, the Examiner remains of the opinion that Gottlieb shows assigning variables associated with at least one container and a number of drop points. To support this conclusion, the Examiner argues that Gottlieb assigns at least a minimum and maximum fill level for each container or an amount of drop mail pieces to a container based on thickness calculations. If the variable exceeds the predetermined threshold, additional drop points and containers are estimated and considered.¹

First, Appellants submit that the Examiner does not even address the claimed features of assigning variables associated with at least one container and a number of drop points. Instead, the Examiner is only addressing assigning at least a minimum and maximum fill level for each container, which is not the same as drop points.

Second, Appellants submit that Gottlieb does not show assigning variables associated with at least one container and a number of drop points. In Gottlieb, variables are associated with the mail pieces, itself, i.e., thickness measurements of the mail pieces. But, these thickness measurements are used to determine the fill capacity of the bins. These thickness measurements are not assigned to the drop point, nor are they used to assign a variable to the drop point.

Third, although Gottlieb assigns the mail pieces to a drop point such that they can be diverted to such drop point, there simply is no teaching that Gottlieb assigns a variable to the drop point. Instead, in Gottlieb, the fill amount of the containers is determined solely for the purpose of providing an indication to empty the bin (when it is deemed full), or to divert the product to another bin. In fact, Gottlieb only is concerned with determining a maximum fill value. More specifically, Gottlieb only determines the fill amount of the bins by measuring the mail pieces already in the bin (via a sensor) or calculating the total thickness of

¹ A discussion of the estimating feature is provided in discussion of the second issue.

the mail pieces which are to be placed in the bin. It is this information which is used to determine a maximum fill value so that mail pieces can be diverted to another bin. However, there is simply no disclosure that Gottlieb uses this information or any other information for assigning a variable to the drop points.

Lastly, as discussed below in more detail, Gottlieb does not show estimating additional drop points and containers. Gottlieb only shows reassigning mail pieces to other bins, when a bin is full.

Second Issue

On pages 3 and 4 of the Examiner's Answer, the Examiner notes that Gottlieb shows a fill level (based on the thickness of the mail pieces) is between a minimum and maximum value, an estimate of one container is determined, and if the fill level exceeds the maximum fill level of the container at a particular drop point, additional drop points are determined necessary. With this, the Examiner concludes that Gottlieb teaches a best estimate of the number of containers needed.

Gottlieb never determines an estimate, much less a best estimate, as to how many containers are needed if: (i) a level of fill varies between a maximum and minimum fill value of the at least one container and (ii) if the number of product varies for the drop point. In Gottlieb, the fill amount of the containers is determined solely for the purpose of providing an indication to empty the bin (when it is deemed full), or to divert the product to another bin. There is no disclosure, whatsoever, that the Gottlieb method determines any estimate of the number of bins needed, much less if a fill level varies (i) between a maximum and minimum fill value of the bin or (ii) for a particular drop point.

In fact, Gottlieb does not even contemplate whether product will vary between a maximum and minimum fill value for a particular bin. Gottlieb also makes no mention of determining estimates if the product varies for a drop point. Instead, Gottlieb is only concerned with determining a maximum fill value and only determines when a bin is or may become full in order to place mail pieces in

another empty bin. This is not the same, even remotely, as estimating the number of bins needed.

CONCLUSION

In summary, Gottlieb does not show or suggest the features of claims 6, 13 and 19. Therefore, the reference does not provide evidence that would support a conclusion of anticipation under 35 U.S.C. §102(b). Appellants thus respectfully submit that the rejections of claims 6, 13 and 19 are in error and that reversal is warranted in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew M. Calderon". The signature is fluid and cursive, with a large loop at the end.

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